



**OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN**

**GERALD C. MANN  
ATTORNEY GENERAL**

Honorable John R. Shook  
Criminal District Attorney  
San Antonio, Texas

Dear Sir:

Attention: Mr. W. Pat Camp

Opinion No. O-4197

Re: Can money set aside for lateral roads be spent on roads or streets in new and old subdivisions outside the city limits?

Your letter of November 1, 1941, requesting an opinion of this department on the above stated question reads in part as follows:

"The County Commissioners' Court of this County has propounded to us the following question, which we desire to submit to you for answer:

"Whether money set aside for lateral roads can be spent on roads or streets in new and old subdivisions outside of the city limits?"

"We enclose herewith a copy of our opinion to comply with your rule and for whatever assistance it may be. It is our opinion that the question should be answered in the affirmative."

In your brief accompanying your request you state "I assume that the money you refer to is the sum of approximately \$28,000.00 recently allocated to Bexar County from the lateral road account of the State, and which you recently designated to be spent for the construction or improvement of county lateral roads, as provided by Article 667dQ-7, Par. H, Purpose B."

We assume that there is a typographical error concerning the Article in the above quoted paragraph from your opinion and that the Article referred to is Article 6674Q-7.

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It seems clear that you have reference to money allocated to your county from the lateral road account, by the Board of County and District Road Indebtedness, and the Commissioners' Court has exercised its option as to one of the specified uses of said money as permitted by Article 6674Q-7, Vernon's Annotated Civil Statutes, namely, the construction of lateral roads in said county. For the purposes of this opinion, we must assume that the provisions of Article 6674Q-7, supra, have been complied with relative to notice to the Board by the Commissioners' Court, showing the manner in which the Court has exercised its option, etc.

When the Commissioners' Court has exercised its option and determined that the money received from the lateral road account shall be used for the construction of lateral roads in the county, the statute places no restriction or limitation on the Commissioners' Court regarding the manner in which such money is to be expended except that "the same shall be utilized by the county, acting through the Commissioners' Court, for the construction of lateral roads."

Article 6674Q-2 defines lateral roads as follows:

"All roads which prior to January 2, 1939, had not become a part of the system of State designated highways, for convenience of this Act are called lateral roads."

It is stated in our opinion No. O-3606 referring to the above mentioned provision "it is our opinion that the lateral roads to which the Act refers can be nothing more than such roads as constitute a part of the county road system as contradistinguished from the State Highway System; therefore, we think the fund allocated to the county for the use on lateral roads under the provisions of this Act would be restricted to the use on roads constituting a part of the county system and over which the County Commissioners' Court has jurisdiction."

Whether or not the roads or streets "in new and old subdivisions outside of the city limits" constitute a part of the county road system, contradistinguished from the State Highway System, and over which the county Commissioners' Court has jurisdiction is a question of fact which we cannot

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pass upon. However, if said "roads or streets in new and old subdivisions outside of the city limits" are a part of the county road system, as contradistinguished from the State Highway System, over which the County Commissioners' Court has jurisdiction, we think the Commissioners' Court is authorized to expend the above mentioned money or funds for the construction of lateral roads in the county, as the Court may in its discretion determine.

We thank you for the brief enclosed with your inquiry.

Trusting the foregoing fully answers your inquiry,  
we are

Yours very truly

APPROVED NOV 12, 1941

ATTORNEY GENERAL OF TEXAS

*John R. Shook*  
JOHN R. SHOOK  
ATTORNEY GENERAL

By

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AW:LM

